

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

KEVIN LEROY FULLINGTON, SR.,)
Plaintiff,)
v.) Case No. 2:23-cv-00049-SRC
ANNE PRECYTHE et al.,)
Defendants.)

Memorandum and Order

On March 18, 2024, the Court ordered Kevin “Fullington to show cause, no later than April 8, 2024, why the Court should not dismiss this case for failure to fully exhaust administrative remedies before filing claims against Taylor Preston.” Doc. 15 at 25. Fullington failed to file a response. Accordingly, the Court dismisses this case.

I. Background

Fullington was an inmate at Tipton Correction Center when he filed this action pursuant to 42 U.S.C. § 1983 against six employees of the Missouri Department of Corrections. Doc. 1. In his complaint, Fullington alleged violations of his civil rights relating to his incarceration at Northeast Correctional Center. Simultaneously, Fullington filed a motion for injunctive relief. Doc. 5.

Because Fullington was a prisoner proceeding *in forma pauperis*, the Court reviewed his complaint on March 18, 2024, pursuant to 28 U.S.C. § 1915 for frivolousness, maliciousness, and failure to state a claim. Doc. 15. Finding that Fullington had alleged 41 claims against six separate defendants in direct contravention of the joinder rules, the Court severed and dismissed all claims and defendants in the lawsuit pursuant to Federal Rule of Civil Procedure 21, except

for Fullington's claims against Taylor Preston. *Id.* at 16–18, 25. The Court also denied Fullington's motion for injunctive relief because none of the allegations in his motion for injunctive relief were relevant to the matters currently being litigated in the present lawsuit against Preston. *Id.* at 21–23.

As to Fullington's claims against Preston, the Court ordered Fullington to show cause why the Court should not dismiss those claims due to his failure to properly exhaust his administrative remedies. *Id.* at 19–21, 25. The Court ordered Fullington to respond, no later than April 8, 2024, to the Court's order. *Id.*

On April 4, 2024, Fullington filed a motion for extension of time to respond to the show-cause order. Doc. 17. He indicated that he was being released from the Missouri Department of Corrections on or about April 24, 2024. *See id.* He sought an extension of time until July 8, 2024, to respond to the Court's requirement to show proper administrative exhaustion. *Id.* On April 5, 2024, the Court granted Fullington's motion. Doc. 18.

II. Discussion

Fullington has failed to respond to the Court's Order to Show Cause issued on March 18, 2024, requiring him to articulate why this matter the Court should dismiss his complaint for failure to exhaust his administrative remedies as to his claims against Preston. Doc. 15. When a plaintiff fails to comply with a court order, the Court “may, on its own motion, dismiss an action for failure to comply.” *Haley v. Kansas City Star*, 761 F.2d 489, 490 (8th Cir. 1985) (citations omitted); *see also Brown v. Frey*, 806 F.2d 801, 803 (8th Cir. 1986). Because Fullington failed to comply with the Court's order, doc. 15, the Court dismisses this action.

III. Conclusion

Accordingly, the Court dismisses Fullington's [1] Prisoner Civil Rights Complaint Under 42 U.S.C. § 1983 without prejudice. A separate Order of Dismissal will accompany this order.

So ordered this 29th day of July 2024.



STEPHEN R. CLARK
CHIEF UNITED STATES DISTRICT JUDGE